

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IN RE) Docket No. 18 C 7686
LION AIR FLIGHT JT 610 CRASH) and related cases
This Document Relates To:) Chicago, Illinois
Docket No. 19 C 797) December 20, 2019
9:41 a.m.

TRANSCRIPT OF PROCEEDINGS - Motion Hearing
BEFORE THE HONORABLE THOMAS M. DURKIN

APPEARANCES:

For Vini MR. THOMAS G. GARDINER
Wulandari: MR. JOHN R. WRONA
(Estate of Harvino) Gardiner Koch Weisberg & Wrona
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For Fahrida MR. JAMES J. LESSMEISTER
Kurniawati: MR. JIMMY A. SAMAD
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1 (In open court.)

2 THE CLERK: 18 C 7686, In re Lion Air Flight JT 610.

3 MR. GARDINER: Good morning, your Honor. Tom Gardiner
4 and John Wrona on behalf of the co-special administrators.

5 THE COURT: Okay.

6 MR. BURLEY: Good morning, your Honor. Dan Burley on
7 behalf of The Boeing Company.

8 MR. LESSMEISTER: James Lessmeister on behalf of
9 Fahrida Kurniawati.

10 MR. SAMAD: Jimmy Samad, also on behalf of Fahrida
11 Kurniawati.

12 THE COURT: All right. Well, Mr. Burley, you're the
13 one causing all the problems on this, so -- I'm kidding.

14 You have no role in any of this, correct?

15 MR. BURLEY: That's correct, your Honor.

16 THE COURT: All right. That's what I thought.

17 I have received by e-mail an e-mail from a Nia
18 Kurniawati, who I believe is the wife. Correct?

19 MR. LESSMEISTER: That is correct, your Honor.

20 THE COURT: All right. I don't know why she's
21 e-mailing my courtroom deputy, copying Judge O'Connell's
22 scheduler, copying Mr. Gardiner, Mr. Lessmeister.

23 I haven't had a chance to read this. What's this all
24 about?

25 MR. LESSMEISTER: I don't know. I received it this

1 morning as well.

2 THE COURT: Have you read it?

3 MR. LESSMEISTER: And I read it. And --

4 THE COURT: So what does it say?

5 MR. LESSMEISTER: It simply says is that she believes
6 that -- she adheres to her faith, that she shouldn't be
7 punished for it, and that she would like Ms. Vini Wulandari
8 removed from the co-administrator position.

9 THE COURT: All right. So it's consistent with the
10 affidavits she filed, which are part of the official court
11 record.

12 MR. LESSMEISTER: That is correct, your Honor.

13 THE COURT: All right.

14 Have you seen it, Mr. Gardiner?

15 MR. GARDINER: I have seen it. I haven't studied it.
16 I just received it, you know, this morning before coming to
17 court.

18 THE COURT: It purports to be on behalf of the
19 family -- families of a hundred -- it says families of --
20 "165 families." So presumably it means 165 families of the
21 victims of the Lion Air Flight 610 crash.

22 I don't know how it's sent by Ms. Kurniawati and the
23 165 other families of victims. Is she in correspondence with
24 all the other people who died on the -- families of the people
25 who died on that plane crash?

1 MR. LESSMEISTER: That I don't know.

2 THE COURT: Okay.

3 MR. GARDINER: And, Judge, we would be moving to
4 strike this. It's like a petition submitted to the Court. And
5 I don't think this is something that would be admissible for
6 your consideration, hearsay documents. I suppose on every
7 case, you could get a bunch of petitions from relatives of
8 parties.

9 THE COURT: Well, I've seen it, so it's going to be
10 part of the court docket. I can't unsee it. There's nothing
11 in here that's privileged or confidential. It's -- I get --
12 unfortunately, even represented parties sometimes feel the need
13 to send something to the Court, and unless it contains
14 privileged or other types of information that shouldn't be part
15 of the public record, I often just docket it.

16 I'm not going to consider it. It's not -- not
17 something filed by counsel. She's represented, and that's how
18 you should correspond with the Court. But I'm going to put it
19 on the docket.

20 MR. GARDINER: I understand, your Honor.

21 THE COURT: Okay. We're up now on -- and then there's
22 a motion filed by -- and, by the way, is Nia Kurniawati the
23 same as Fahrida?

24 MR. LESSMEISTER: That's correct, your Honor.

25 THE COURT: Okay. So there's Ms. Kurniawati's motion

1 to strike Vini Wulandari's affidavit, which is up on
2 January 6th.

3 MR. LESSMEISTER: I did that because I know you don't
4 allow piggybacks, and I just wanted to get it scheduled. So
5 that's why I did it that way. And I wasn't about to violate
6 your standing order.

7 THE COURT: Okay. All right. Well, we'll consider
8 this today too.

9 All right. Is there -- I've read all the briefs. Is
10 there anything else parties want to prepare -- or want to say?
11 Otherwise, I'm prepared to rule.

12 MR. LESSMEISTER: No, your Honor.

13 MR. GARDINER: No, your Honor.

14 THE COURT: All right. The -- I had encouraged --
15 there were co-administrators appointed in the state court to
16 bring the lawsuit by the pilot -- one of the -- one of the
17 pilots of the Lion Air Flight 610 that crashed in Indonesia and
18 killed everyone on board, including the copilot.

19 Co-administrators were appointed. One of the
20 co-administrators is the widow of the pilot. The other is the
21 sister of the pilot. They were getting along then apparently
22 because it was a joint request that they be appointed as
23 co-administrators. That was done in the state court.

24 I think the wrongful death case even was filed in the
25 state court and was removed to federal court. Correct?

1 MR. GARDINER: Correct.

2 MR. LESSMEISTER: That's correct.

3 THE COURT: Okay. Counsel for -- then at a later
4 date, apparently there was some type of falling out between the
5 widow of the pilot and the sister of the pilot, and the sister
6 of the pilot -- I'm sorry -- the widow, Ms. Kurniawati,
7 discharged Mr. Gardiner and his firm from representing her. So
8 I allowed Mr. Lessmeister and his firm to come in and file an
9 appearance on behalf of Ms. Kurniawati, hoping that the two
10 sets of attorneys could appear before Judge O'Connell for a
11 mediation and engage in productive settlement discussions.

12 There was a lot of back and forth on who showed up,
13 who didn't. But the bottom line is no settlement was
14 accomplished. In fact, it was -- the mediation was continued.
15 Is that correct?

16 MR. GARDINER: That is correct.

17 MR. LESSMEISTER: That's correct.

18 THE COURT: And it's set for a date in January now.

19 MR. LESSMEISTER: That's correct.

20 THE COURT: All right. There have been -- there's a
21 motion to remove Vini Wulandari as co-administrator of the
22 estate. I believe under the state statute that allows a -- and
23 I suggested the case go back to state court and any decision as
24 to whether to remove the co-administrator be made by the judge
25 who appointed the co-administrators.

1 The state court judge -- Judge Flannery -- who heard
2 this matter believed that he didn't have jurisdiction to decide
3 it -- I think he was right -- because the case had been removed
4 to federal court where it's in front of me.

5 So I think Judge Flannery was correct. I read the
6 transcript very carefully of his comments. I think he shared
7 the same view I have, which is the parties really ought to try
8 and work this out so that there's no delay in any attempted
9 mediation because of the likelihood at some point that Boeing's
10 going to file a motion to dismiss for *forum non conveniens*, and
11 then you're at least in the uncertain world of whether or not I
12 grant that motion or not.

13 I've read over the papers. I believe that as -- just
14 as a -- the judge who under state law has the ability to
15 appoint an administrator or co-administrators to pursue a
16 wrongful death, so too can the judge who had the power to do
17 that decide to terminate an administrator -- one of the
18 administrators or, in fact, both of them if -- if the facts
19 made such a termination appropriate.

20 In this case, Ms. Kurniawati and her children -- so
21 the widow of the pilot and the children -- are the sole
22 beneficiaries of any recovery in the wrongful death case.
23 That's true under Indonesian law based on the representations
24 I've seen. It's true under Islamic law based under the --
25 based on the representations I've seen. I've heard nothing

1 from the attorneys for Ms. Wulandari that that is incorrect.

2 And, in fact, affirmatively, Ms. Wulandari -- there
3 have been statements made and even an affidavit from her that
4 she -- she gets no recovery from this, seeks nothing from it
5 and gets no recovery. Her interest is simply in helping the
6 family because of her position, presumably, as -- as the sister
7 of the pilot.

8 I don't know necessarily what her sophistication is
9 compared to the widow. There's been some back and forth about
10 all that. But certainly there's nothing to indicate
11 Ms. Kurniawati is incompetent or incapable of deciding what is
12 in the best interests of herself and her children.

13 She also has sole custody of the children. They're
14 not being raised by Ms. Wulandari; they are being raised by
15 Ms. Kurniawati. And there's been no evidence presented that
16 she is not acting in the best interests of herself and her
17 children. In fact, it would be illogical that she would act in
18 any way inconsistent with that obligation.

19 So I'm going to remove Vini Wulandari as the
20 co-administrator and confirm that the sole administrator in
21 this case is Fahrida Kurniawati.

22 The -- Mr. Gardiner, you and your firm are free to
23 file an attorney's lien. You did a large amount of work on
24 this case to get it to the position where it's at. I've had
25 this issue come up not quite in this context, but I've had

1 substitutions of counsel occur in this case, and the prior
2 counsel has put in an attorney lien as they properly should.

3 And if that's -- hopefully it's not going to be
4 contested. But if it is contested, it will have to come before
5 me, I think. I don't think that's a state court issue. I
6 think it will remain in front of me. And I'll rule on any
7 disputes should they arise.

8 My hope is then that there be a productive settlement
9 discussion with Judge O'Connell. I can't compel a settlement;
10 I can't force one. All I know is Judge O'Connell is a very
11 effective mediator and has had great success so far in these
12 cases, and I hope he does on this case.

13 That's the ruling of the Court.

14 MR. GARDINER: Thank you, your Honor.

15 MR. LESSMEISTER: Thank you, your Honor.

16 THE COURT: Thank you all.

17 (Concluded at 9:51 a.m.)

18 C E R T I F I C A T E

19 I certify that the foregoing is a correct transcript of the
20 record of proceedings in the above-entitled matter.

21
22 /s/ LAURA R. RENKE
23 LAURA R. RENKE, CSR, RDR, CRR
24 Official Court Reporter
25

December 30, 2019